

*Commissioner for Patents
Amendment dated July 26, 2005
Response to Office Action dated April 26, 2005
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*Serial No.: 10/075861
Art Unit: 2179
Examiner: Hanne
Docket No.: RPS9 2001 0150 US1*

REMARKS/ARGUMENTS

Claims 1-21 were presented and examined. The Examiner rejected claims 1-21 under 35 USC § 103(a), as being unpatentable over Takahashi *et al.* (U.S. Patent No. 5,999,162), hereinafter "Takahashi", and further in view of Balassanian (U.S. Patent No. 6,507,349 B1), hereinafter "Balassanian". In this response, Applicant has amended claim 15. Claims 1-21 remain pending.

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Claim rejections under 35 USC § 103(a)

The Examiner rejected claims 1-21 under Section 103(a) as being unpatentable over Takahashi, and further in view of Balassanian.

In response to the rejection of independent claims 1 and 8, Applicant respectfully traverses the rejection because the Office Action does not establish a prima facie case of obviousness. Specifically, the Section 103(a) rejection of independent claims 1 and 8 is improper because the cited references do not disclose or suggest all of the claim limitations. Whereas the claims under consideration recite a user positionable icon as a portion of a display, neither of the cited references discloses or suggests such an icon.

A prima facie case of obviousness requires satisfaction of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art references must teach or suggest all the claim limitations. MPEP 2143. In this case, the Office Action fails to establish a prima facie case of obviousness because the cited references do not teach or suggest all the claim limitations.

Independent claims 1 and 8 recite a user positionable icon as part of the display. The Office Action correctly acknowledges that Takahashi fails to show a user positionable icon as a part of the display. Supporting the Section 103(a) rejection of claims 1 and 8, the Office Action states that Balassanian teaches a user positionable icon as a portion of the display controlling the amount of information to be retained onscreen. Applicant respectfully disagrees that Balassanian teaches a user positionable icon. The icon(s) disclosed in Balassanian upon which the Office Action relies to support the Section 103(a) rejection are the container controls 480 and 485 depicted in FIG. 4L and FIG. 4M. The text describing these elements reads as follows:

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FIGS. 4L and 4M illustrate direct manipulation of a container holding displayed content in which the visual representation of the container is diminished so that less of the available display area is obscured (e.g., to be able to view another container behind the diminished container). In particular, in the illustrated embodiment the window 100 has additional container controls 480 and 485. Container control 480 represents a control such as those on a window shade or a projector screen that control the scrolling of those objects. After the user moves the cursor over the container control 480, the user can indicate that the window 100 is to be scrolled up into a diminished form. In some embodiments, this indication involves a direct manipulation of a quick tug of the control in the direction opposite of the scrolling (i.e., a tug downwards for the window to scroll upwards). After such a direct manipulation has been performed on control 480, the window 100 will be modified into a diminished form such as is shown in FIG. 4M. In some embodiments, intermediate states of the window will be displayed as the scrolling occurs, while in other embodiments the full-sized window will merely be replaced by the diminished form of the window.

In an analogous manner, the diminished form of the window 100 in FIG. 4M can be expanded into the full-sized window by placing the cursor over the control 480 and performing a direct manipulation to expand the window. In some embodiments, the appropriate direct manipulation may be a short tug in the direction of expansion of the window (i.e., a tug downwards for the window to scroll down), while in other embodiments the direct manipulation will be dragging the control 480 and the bottom of the window downward until a desired expanded window size is reached. Those skilled in the art will appreciate that a variety of types of direct manipulation can be used to diminish and expand a window, and that a diminished window can be visually represented in a variety of ways. In addition, in some embodiments separate container controls may not be displayed, and such manipulations may instead be performed directly on the container (e.g., on the border or edge of the container).

This description makes it clear that the container controls 480 and 485 of Balassanian are not user positionable icons as recited in the claims under consideration. The Balassanian container controls 480 and 485 are objects upon which a user may click or otherwise take action to close or "diminish" a container, which is Balassanian's word for a display window. Using container controls 480 and 485, a user may elect to "scroll up" a display window either vertically as shown in FIG 4M or horizontally. There is in Balassanian, however, no explicit or suggested indication that container controls 480 and 485 are user positionable icons. Balassanian merely indicates that the container controls 480 and 485 are available as part of a display window as a means for minimizing the window.

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User positionable icons are not disclosed or suggested by the container controls 480 and 485 of Balassanian because making the container controls user positionable would add no functionality. As tools for minimizing and expanding a display window, container controls 480 and 485 would cause the same activity regardless of their position(s) on the display windows and there would be no benefit to making the controls movable. In sharp contrast, the moveability of the icons recited in the claims under consideration is directly linked to the functionality provided by the icons. As recited in the pending claims, the position of the moveable icons determines how much historical data is retained in a refreshed display. This functionality enables a user to control directly the amount of data that is retained when a real time display is refreshed. Because there the cited references do not teach or suggest a user positionable icon as part of the display as recited in claims 1 and 8, the Section 103(a) rejection of claims 1 and 8 is improper. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claims 1 and 8 and the claims dependent thereon.

With respect to the rejection of independent claim 15, Applicant has amended the claim to recite that the graphical representation includes a horizontal axis representing time and a vertical axis representing a parameter of interest. (p4 l29) and that the user positionable icon is moveable along the horizontal axis of the display window (p6 l17). The amended claim also recites that the position of the icon along the horizontal axis determines how much historical data is retained in a refreshed display. Support for these amendments is found in the specification as filed in the paragraphs beginning on page 4, line 29, page 5, line 22 and page 6 line 7. The amended claim recites details about the user positionable icon that are not disclosed or suggested by Balassanian because Balassanian does not disclose or suggest wherein its container controls 480 and 485 are movable along a horizontal axis of the display. To the contrary, because container controls 480 and 485, when activated, cause the corresponding display window to become diminished or otherwise minimized, Balassanian is inconsistent with a user positionable icon that is moveable along a horizontal axis of the display. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the Section 103(a) rejection of independent claim 15 and its dependent claims.

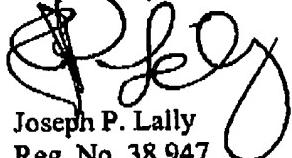
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CONCLUSION

In the present response, Applicant has responded to the Examiner's claim rejections under 35 USC § 103(a), which is the only issue raised in the Office Action. Accordingly, Applicant believes that this response constitutes a complete response to the issues raised in the Office Action. In light of the amendments made herein and the accompanying remarks, Applicant believes that the pending claims are in condition for allowance. Accordingly, Applicant would request the Examiner to withdraw the rejections, allow the pending claims, and advance the application to issue. If the Examiner has any questions, comments, or suggestions, the undersigned attorney would welcome and encourage a telephone conference at 512.428.9872.

Respectfully submitted,



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Attachments